

**REMARKS/ARGUMENTS**

It is noted that claims 1-10, 14-18 and 22-30 are now pending.

In response to the objection to the drawings stated in Par. 3 of the Office Action, applicant submits proposed corrected drawings attached hereto. The items specifically objected to have been corrected.

The objection to the specification in Par. 4 of the Office Action is noted. The requested description of Figures 4b through 4i has been added above in the amendments to the specification.

The rejection of claim 28 under 35 U.S.C. 112, second paragraph, in Par. 5 of the Office Action is overcome by deletion of the phrase "exceeding a" in the above amendment to the claims.

The rejection in Pars. 6-11 of claims under 35 U.S.C. 102 and 103, based on the Dirksing and Hukuba patents, is noted and respectfully traversed. Independent claims 1 and 27 as now amended and independent claims 28 and 29, and all claims dependent thereon, have a particular element in common which renders them distinguished from and non-obvious over the two cited prior art patents considered alone or combined. The particular element is the feature of the toothbrush of claims 1 and 27 and the method of claims 28 and 29, whereby the toothbrush head becomes moved: (a) from a first normal orientation relative to the handle, where the toothbrush is operable (in the normal manner of a standard toothbrush), (b) to a second orientation relative to the handle, where the toothbrush is no longer operable (in the normal manner) as a toothbrush.

More specifically, in the second orientation the head is at an unnatural and improper angle relative to the handle, such that a user would find the toothbrush awkward or impossible to use.

In a first embodiment the second position of the head is excessively angled relative to the handle; in a second embodiment the head is loose or floppy between various angles, and again is awkward or impossible to use.

In each of these embodiments the head becomes dislodged from its first orientation, only when the user applies too much force of the head bristles against the teeth or gums. More specifically, the head is connected to the handle by a hinge joint. When the user's force exceeds a predetermined safe or desirable level, the hinge releases and the head moved into its second orientation. Later, the user can manually return the head back to its first orientation, where it will remain until excessive force is applied again.

This concept of normal orientation, excessive force, hinge release, and manual resetting has been clearly set forth in the original disclosure in the specification and in the claims. Specific references to this concept appear on pages 3, 4 and 7 as follows and are specifically recited in original claims 27, 28 and 29. Thus, the argument herein for patentability of this concept is not new, and was originally disclosed, claimed and presumably searched. The supporting text in the specification is found on:

Page 3, lines 3-5 from the bottom, "... the head (of the toothbrush) ... to ... a second position which is intended to be so awkward that it is essentially non-usable."

Page 4, lines 1-4 “head (of the toothbrush) . . . floppy or loosely attached to the handle. The toothbrush remains essentially nonusable until the user manually returns the head back to said first position.”

Page 7, lines 1-3 from the bottom to page 8, lines 2 from the top, “when the head (of the toothbrush) is forced out of this position out of the initial proper orientation) and the detent is driven out of recess 67a, the head will be free to “flop” backward. In one version there will be a stop to limit the backward movement of the head. In either case the head will pivot but not snap to an unusual orientation until it is manually brushed back to its initial position.”

Claims 28 and 29 included the “inoperative” terminology, and claims 1 and 27 have been amended to include same. Claim 12 has been amended to correctly reference claim 11 rather than claim 9. The remaining pending claims are dependent on claim 1.

Applicant now addresses the rejections of these claims. It is respectfully submitted that neither of the cited references discloses a toothbrush that is rendered inoperative or even too awkward to be operated in the normal sense. On the contrary, Dirksing discloses a head moved merely enough (it appears to be less than one eighth of an inch) to signal the user that he or she has exceeded the desired force range; however, the user can disregard such signal, and is likely to disregard the signal if the user is in a hurry or even believes he or she can compensate with a “lighter touch” without stopping to reset the head. Other users may not even care, and continue brushing with the excessive force, or perhaps not believe the force is excessive.

The Hukuba patent discloses an electric toothbrush with a reciprocal stroke that is

automatically reduced when excessive pressure is applied to the bristles. The electric motor rotates a crank which creates a reciprocal motion of the brush head. The length of the crank becomes effectively reduced and consequently, the stroke of the reciprocal motor is reduced. However, this toothbrush is not rendered inoperative, or unusable until reset, as in the present claims.

Regardless of all the possible attitudes or actions by the user, neither of these references teaches the rendering of the toothbrush to be inoperative, namely neither teaches a toothbrush that is foolproof against the poor judgment or contrary wishes of the user. These prior toothbrushes merely either signal the user of the excessive force condition, or alter the reciprocal stroke, but do not render the toothbrush inoperable. The present invention defines the new brush of claims 1-9, 14-18, 25 and 27 and the new methods with such toothbrush of claims 28 and 29.

It is respectfully submitted that the rejections under 35 U.S.C. 102 based on Dirksing or Hukuba and under 35 U.S.C. 103 based on Hukuba, are not properly applicable against the pending claims and should be withdrawn.

The rejections under 35 U.S.C. 102 must fail because none of the pending claims read on either of the cited references. The 35 U.S.C. 103 rejections are believed incorrect for lack of obviousness to render a toothbrush unusable; in fact a user may continue brushing with a toothbrush of either of these references after the pre-set force level is exceeded.

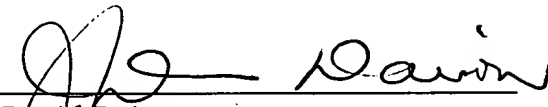
Appl. No. 09/583,626  
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Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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Attachments